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CENTRAL FAX CENTER****AUG 13 2009****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Applicant:</b>	Yoshikazu Kakura	<b>Examiner:</b>	Tangela T. Chambers
<b>Serial No.:</b>	10/561,128	<b>Art Unit:</b>	4141
<b>Filed:</b>	December 16, 2005	<b>Docket:</b>	19446
<b>For:</b>	SPREAD CODE ASSIGNING METHOD IN CODE SPREAD RADIO COMMUNICATION USING A PLURALITY OF TRANSMISSION/RECEPTION ANTENNAS AND CODE SPREAD RADIO COMMUNICATION SYSTEM USING THE SAME		
		<b>Dated:</b>	August 13, 2009

**Confirmation No. 5920**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST TO RESCIND ABANDONMENT**

Dear Sir:

Applicant has become aware that the above application has become abandoned via PAIR for failure to respond to the Office Action dated February 15, 2008. Applicant did not receive the Office Action or any correspondence from the USPTO since the application was filed. It appears from the records that the USPTO has been sending all correspondence relative to the above application to Paul K. Mathews of Newark, Ohio. The correspondence address on both the Declaration and the '371 transmittal is Scully, Scott, Murphy & Presser, 400 Garden City Plaza, Suite 300, Garden City, New York 11530. Copies of the foregoing documents are attached.

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**CERTIFICATION OF FACSIMILE TRANSMISSION**

I hereby certify that this paper is being facsimile transmitted to facsimile number 571-273-8300 at the Patent and Trademark Office on the date shown below.

Dated: August 13, 2009

  
Paul J. Esatto, Jr.

It is the procedure of our docketing department to enter all due dates into our CPI computer database program. Such is the procedure for an Office Action. The file also gets flagged with the due date and the secretary enters the date on a docket sheet and the attorney in charge of the application reports the Office Action to the client. No record in CPI or the file indicates that an Office Action was ever received or entered.

A statement from the practitioner attesting to the above is enclosed. It is respectfully requested that the abandonment of this application be rescinded, and a new Office Action be issued.

Should any fee be required, please charge Deposit Account No. 19-1013/SSMP.

Respectfully submitted,



Paul J. Esatto, Jr.  
Registration No. 30,749

Scully, Scott, Murphy & Presser  
400 Garden City Plaza  
Garden City, New York 11530  
(516) 742-4343

PJE:ae

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Applicant:</b>	Yoshikazu Kakura	<b>Examiner:</b>	Tangela T. Chambers
<b>Serial No.:</b>	10/561,128	<b>Art Unit:</b>	4141
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**Confirmation No. 5920**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**STATEMENT**

I, Paul J. Esatto, Jr., the undersigned, hereby state the following:

- I. I am senior partner at the law firm of Scully, Scott, Murphy, and Presser (hereinafter SSMP) located in Garden City, New York, United States of America.
- II. In my capacity as senior partner it is among one of my many responsibilities to review all communications from the U.S. Patent and Trademark Office addressed to me, including Office Actions, Notice of Allowances, Notice to File Missing Parts, and all other mail having due dates upon their arrival at SSMP. After review, I assign the case to an attorney for further handling, if necessary.
- III. Upon receipt of a letter dated August 6, 2009 from the client in Japan advising us that PAIR was checked and the application was abandoned for failure to respond to an outstanding Office Action, I carefully reviewed the docket and determined that the Office Action dated February 15, 2008 was never received and not in the file. I had the docketing department search our computer database, and it was determined that the Office Action was never received nor entered into the computer database. A copy of the print-out of the computer data sheet for the above application is attached. The print-out shows that no entry was made for the Office Action and any extensions of time. Also, upon checking PAIR, it is noted that all of the correspondence in the application went to Paul K. Mathews of Newark, Ohio, and none of the correspondence was forwarded to our offices. We have no record of the Office Action being forwarded to us from Mr. Mathews.

Dated: August 13, 2009

  
\_\_\_\_\_  
Paul J. Esatto, Jr.

**Country Application**

Thursday, August 13, 2009

<b>Case Number:</b> 19446	<b>Country:</b> US	<b>SubCase:</b>
<b>Docket Number:</b> 19446	United States of America	
<b>Matter Number:</b> 02124	<b>Case Type:</b> PCT	<input type="checkbox"/> <b>Terminal Disclaimer</b>
<b>Client:</b> 995	Aspire International Patent Firm(was Goto & Ikeda)	
<b>Client Reference #:</b> WN-2672	<b>Application Status:</b> Pending	
<b>Application Number:</b> 10/561,128	<b>Filing Date:</b> 16-Dec-2005	
<b>Publication Number:</b>	<b>Publication Date:</b>	
<b>Patent Number:</b>	<b>Issue Date:</b>	
<b>Parent/PCT Number:</b>	<b>Parent/PCT Date :</b>	
<b>Parent Patent Number:</b>	<b>Parent Issue Date :</b>	
<b>Tax Schedule:</b> LE	<b>Expiration Date:</b>	
<b>Confirmation #:</b>	<b>PTA:</b> 0	
<b>Agent:</b>		
<b>Agent Reference No.:</b>		

**Owner:** NEC 1 NEC Corporation**Attorney:** PJE

**Remarks:** Corresponds to Japanese Patent Appln. No. 2003-187950 filed on June 30 2003.  
PCT National Phase in USA (Chapter II) for PCT/JP2004/009603 filed on June 30, 2004.  
Preliminary Amend sent with application 12/16/2005

**Country Application Assignment History**

Assignment From	Assignment To	Assignmt Date	Reel	Frame
Inventor	NEC Corporation	16-Dec-2005	017387	0636

**Country Application**

Thursday, August 13, 2009

**List Of Actions**

Action(s) Due	Due Date	Action Taken	Taken
US-National Phase Due	16-Dec-2005	Due Date	16-Dec-2005 <input checked="" type="checkbox"/>
Postcard Received	06-Jan-2006	Due Date	03-Jan-2006 <input checked="" type="checkbox"/>
Disclosure Statement c/u	16-Feb-2006	Due Date	<input checked="" type="checkbox"/>
Information Disclosure Stmt	16-Mar-2006	Due Date	13-Mar-2006 <input checked="" type="checkbox"/>
Application Status Check	16-Jun-2007	Due Date	<input type="checkbox"/>
Waiting for Translation Nae Na	19-Aug-2009	Due Date	<input type="checkbox"/>
IDS-Japanese/OA 30 Days	28-Aug-2009	Due Date	<input type="checkbox"/>
IDS-Japanese/OA 3 Month	29-Oct-2009	Final	<input type="checkbox"/>

User ID: samia

Date Created: 14-Dec-2005

Last Update: 07-Apr-2006

AUG 13 2009

FORM PTO-1390 (Modified) U.S. PATENT AND TRADEMARK OFFICE; U.S. DEPARTMENT OF COMMERCE (REV. 7-2005)		ATTORNEY'S DOCKET NUMBER 19446
TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371		U.S. APPLICATION NO. (If known, see 37 CFR 1.5)
INTERNATIONAL APPLICATION NO. PCT/JP2004/009603	INTERNATIONAL FILING DATE 30 June 2004 (30.06.2004)	PRIORITY DATE CLAIMED 30 June 2003 (30.06.2003)
TITLE OF INVENTION SPREAD CODE ASSIGNING METHOD IN CODE SPREAD RADIO COMMUNICATION USING A PLURALITY OF TRANSMISSION/RECEPTION ANTENNAS AND CODE SPREAD RADIO COMMUNICATION SYSTEM USING THE SAME		
APPLICANT(S) FOR DO/EO/US Yoshikazu KAKURA		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
<ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> This is a <b>FIRST</b> submission of items concerning a submission under 35 U.S.C. 371.</li> <li>2. <input type="checkbox"/> This is a <b>SECOND</b> or <b>SUBSEQUENT</b> submission of items concerning a submission under 35 U.S.C. 371.</li> <li>3. <input checked="" type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (24) indicated below.</li> <li>4. <input checked="" type="checkbox"/> The US has been elected (Article 31).</li> <li>5. <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371 (c)(2)) <ol style="list-style-type: none"> <li>a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau).</li> <li>b. <input checked="" type="checkbox"/> has been communicated by the International Bureau.</li> <li>c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US).</li> </ol> </li> <li>6. <input checked="" type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). <ol style="list-style-type: none"> <li>a. <input checked="" type="checkbox"/> is attached hereto.</li> <li>b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4).</li> </ol> </li> <li>7. <input checked="" type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3)) <ol style="list-style-type: none"> <li>a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau).</li> <li>b. <input type="checkbox"/> have been communicated by the International Bureau.</li> <li>c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired.</li> <li>d. <input checked="" type="checkbox"/> have not been made and will not be made.</li> </ol> </li> <li>8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).</li> <li>9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)).</li> <li>10. <input type="checkbox"/> An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)).</li> <li>11. <input checked="" type="checkbox"/> A copy of the International Preliminary Examination Report (PCT/IPEA/409).</li> <li>12. <input checked="" type="checkbox"/> A copy of the International Search Report (PCT/ISA/210).</li> </ol> <p>Items 13 to 23 below concern document(s) or information included:</p> <ol style="list-style-type: none"> <li>13. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98.</li> <li>14. <input checked="" type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.</li> <li>15. <input type="checkbox"/> A <b>FIRST</b> preliminary amendment.</li> <li>16. <input type="checkbox"/> A <b>SECOND</b> or <b>SUBSEQUENT</b> preliminary amendment.</li> <li>17. <input type="checkbox"/> A substitute specification.</li> <li>18. <input type="checkbox"/> A power of attorney and/or change of address letter.</li> <li>19. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821 - 1.825.</li> <li>20. <input type="checkbox"/> A second copy of the published International Application under 35 U.S.C. 154(d)(4).</li> <li>21. <input type="checkbox"/> A second copy of the English language translation of the International Application under 35 U.S.C. 154(d)(4).</li> <li>22. <input checked="" type="checkbox"/> Express Mail Label No. EV 213901715 US</li> </ol>		

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PTO-1390 (Rev. 07-2005)

Approved for use through 3/31/2007. OMB 0851-0021

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

U.S. APPLICATION NO (if known, see 37 CFR 1.5)		INTERNATIONAL APPLICATION NO. PCT/JP2004/009603		ATTORNEY'S DOCKET NUMBER 19446	
23. Other Items or Information: Eight (8) sheets of drawings Assignee: NEC Corporation of Tokyo, Japan					
The following fees have been submitted:				CALCULATIONS PTO USE	
24. <input checked="" type="checkbox"/> Basic national fee .....				\$300	\$ \$300.00
25. <input checked="" type="checkbox"/> Examination fee (37 CFR 1.492(c)) If the written opinion prepared by ISA/US or the International preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article All other situations .....				\$0 \$200	\$ \$200.00
26. <input checked="" type="checkbox"/> Search fee (37 CFR 1.492(b)) If the written opinion of the ISA/US or the International preliminary examination report by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4). Search fee (37 CFR 1.445(a)(2)) has been paid on the International application to the as an International Searching Authority. .... International Search Report prepared by an ISA other than the US and provided to the previously communicated to the US by the IB. .... All other situations .....				\$0 \$100 \$400 \$500	\$ \$400.00
TOTAL OF 24, 25 and 26 =				\$	\$900.00
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(j)). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole)	RATE		
44 - 100 =	0 /50 =	0	x \$250.00	\$	\$0.00
Surcharge of \$130.00 for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).				\$	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	31 - 20 =	7	x \$50.00	\$	\$550.00
Independent claims	5 - 3 =	2	x \$200.00	\$	\$400.00
MULTIPLE DEPENDENT CLAIMS (if applicable) <input checked="" type="checkbox"/> + \$360.00				\$	\$360.00
TOTAL OF ABOVE CALCULATIONS =				\$	\$1,710.00
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2.				\$	\$0.00
SUBTOTAL =				\$	\$1,710.00
Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).				\$	\$0.00
TOTAL NATIONAL FEE =				\$	\$1,710.00
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40 per property +				\$	\$0.00
TOTAL FEES ENCLOSED =				\$	\$1,710.00
				Amount to be	\$ 2010
				Amount to be	\$

Aug. 13. 2009 12:11PM

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No. 1591 P. 9

PTO-1390 (Rev. 07-2005)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

- a. ☒ A check in the amount of \$ \$1,710.00 to cover the above fees is enclosed.
- b. ☐ Please charge my Deposit Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ to cover the above fees.  
A duplicate copy of this sheet is enclosed.
- c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 19-1013/SSMP. A duplicate copy of this sheet is enclosed.
- d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization to PTO-2038.

NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive 37 CFR 1.137(a) or (b) must be filed and granted to restore the International Application to pending status.

SEND ALL CORRESPONDENCE TO:

Leopold Presser  
SCULLY, SCOTT, MURPHY & PRESSER  
400 Garden City Plaza, Suite 300  
Garden City, New York 11530  
(516) 742-4343

SIGNATURE

Leopold Presser

NAME

19,827

REGISTRATION NUMBER

December 16, 2005

DATE

Express Mail Label No. EV 213901715 US

Page 1 of 3

Docket No.

19446

**Declaration and Power of Attorney For Patent Application****English Language Declaration**W# 2672(P)  
2003-187950

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

SPREAD CODE ASSIGNING METHOD IN CODE SPREAD RADIO COMMUNICATION USING  
A PLURALITY OF TRANSMISSION/RECEPTION ANTENNAS AND CODE SPREAD RADIO COMMUNICATION  
SYSTEM USING THE SAME

the specification of which

(check one)

☒ is attached hereto.☐ was filed on 30/6/2004 as United States Application No. or PCT International

Application Number PCT/JP2004/009603

and was amended on

(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Not Claimed

187950/2003	Japan	30/6/2003	<input type="checkbox"/>
(Number)	(Country)	(Day/Month/Year Filed)	
			<input type="checkbox"/>
(Number)	(Country)	(Day/Month/Year Filed)	
			<input type="checkbox"/>
(Number)	(Country)	(Day/Month/Year Filed)	

I hereby claim the benefit under 35 U.S.C. Section 119(e) of any United States provisional application(s) listed below:

\_\_\_\_\_  
(Application Serial No.)

\_\_\_\_\_  
(Filing Date)

\_\_\_\_\_  
(Application Serial No.)

\_\_\_\_\_  
(Filing Date)

\_\_\_\_\_  
(Application Serial No.)

\_\_\_\_\_  
(Filing Date)

I hereby claim the benefit under 35 U. S. C. Section 120 of any United States application(s), or Section 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, C. F. R., Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

\_\_\_\_\_  
(Application Serial No.)

\_\_\_\_\_  
(Filing Date)

\_\_\_\_\_  
(Status)  
(patented, pending, abandoned)

\_\_\_\_\_  
(Application Serial No.)

\_\_\_\_\_  
(Filing Date)

\_\_\_\_\_  
(Status)  
(patented, pending, abandoned)

\_\_\_\_\_  
(Application Serial No.)

\_\_\_\_\_  
(Filing Date)

\_\_\_\_\_  
(Status)  
(patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. *(list name and registration number)*

**Stephen D. Murphy, Reg. No.: 22,002**

**Paul J. Esatto, Reg. No.: 30,749**

**William C. Roch, Reg. No.: 24,972**


**Mark J. Cohen, Reg. No.: 32,211.**

Frank S. DiGiglio, Reg. No.: 31,346

**Donald T. Black, Reg. No.: 27,999**

**Send Correspondence to:** Paul J. Esarto, Jr.  
Scully, Scott, Murphy & Presser  
400 Garden City Plaza  
Garden City, New York 11530

Direct Telephone Calls to: (name and telephone number)  
Paul J. Esatto, Jr. (516) 742-4343

Full name of sole or first inventor Yoshikazu KAKURA			Date
Sole or first inventor's signature <i>Yoshikazu Kakura</i>			December 13, 2004
Residence Tokyo, Japan			
Citizenship Japanese			
Post Office Address c/o NEC Corporation, 7-1, Shiba 5-chome, Minato-ku, Tokyo, Japan			

Full name of second inventor, if any	
Second inventor's signature	Date
Residence	
Citizenship	
Post Office Address	